IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No. 17117 of 2005

Date of Decision: November 23, 2006

Ved Parkash

…..Petitioner

Vs.

Haryana State Agricultural Marketing Board

…..Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR.

HON'BLE MR. JUSTICE M.M.S. BEDI.

Present:- Mr. S.S. Malik, Advocate
for the petitioner.

Mr. S.P. Singh, Advocate
for the respondents

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M.M. KUMAR, J. (ORAL)

The prayer made by the counsel for the petitioner is that the petitioner would confine his challenge only to that part of the order dated October 18, 2006 (P-6) vide which recovery is sought to be effected from him while reducing his pay. It is appropriate to mention that the petitioner

was granted the benefit of first higher standard scale w.e.f. June 1, 1998, on completion of 10 years satisfactory service in pursuance to the Government instructions circulated by the respondent Board on June 21, 1994. The withdrawal of the aforementioned first higher standard scale is based on the fact that whole service including adhoc service rendered by the petitioner was taken into account which was later on found to be erroneous. As per the averments made by the respondents in para 5 of the written statement, it resulted into recovery amounting to Rs.25,086/- by order dated October 18, 2005 (P-6). The case of the petitioner is that he has neither misrepresented nor concealed any fact from the respondents when the period of his adhoc service was taken into account for the purposes of releasing the first higher standard scale, and therefore, recovery cannot be affected from him. In support of his submission, learned counsel has placed reliance on the judgment of Hon'ble the Supreme Court in **Sahib Ram v. State of Haryana**, 1995 (1) SCT 668.

After hearing the learned counsel for the parties, we are of the view that the submission made by the learned counsel for the petitioner merit acceptance. The Hon'ble Supreme Court in **Sahib Ram's** case (supra), has laid down that in the absence of any fraud or misrepresentation on the part of an employee, no recovery can be affected, if there is wrong fixation of pay which later on has been withdrawn. It is admitted position that the petitioner has not made any misrepresentation as is evident from the perusal of para 10 of the writ petition as well as that of the reply. Therefore,

the order annexure P-6 is quashed and a direction is issued to the respondents not to effect any recovery from the petitioner on that account.

In view of the above, the writ petition is allowed.

(M.M.KUMAR)
JUDGE

November 23, 2006
sanjay

(M.M.S.BEDI)
JUDGE